



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2021-0131]

Entry-Level Driver Training: Application for Exemption; Ohio Department of Education

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that the Ohio Department of Education (ODE) has requested an exemption from the Entry-Level Driver Training (ELDT) requirements that will be implemented in February 2022. The exemption request applies to drivers, trained through ODE's "Pre-Service School Bus Driver Training" curriculum, who are seeking to obtain their Class B Commercial Driver's License (CDL) with school bus (S) and passenger (P) endorsements, and to current Class B CDL holders wishing to add the P and S endorsements. The ODE believes the Ohio theory (i.e., classroom) curriculum and behind-the-wheel (BTW) instruction meet or exceeds all the new ELDT requirements.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2021-0131 by any of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. See the **Public Participation and Request for Comments** section below for further information.
- **Mail:** Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- **Hand Delivery or Courier:** West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- **Fax:** 1-202-493-2251.

Each submission must include the Agency name and the docket number for this notice (FMCSA-2021-0131). Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the **Privacy Act** heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, 20590-0001 between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Docket Operations.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; 202-366-2722 or MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2021-0131), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to www.regulations.gov and put the docket number, “FMCSA-2021-0131” in the “Search” box, and click “Search.” When the new screen appears, click on “Documents” button, then click the “Comment” button associated with the latest notice posted. Another screen will appear, insert the required information. Choose whether you are submitting your comment as an individual, an organization, or anonymous. Click “Submit Comment.”

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and materials received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the *Federal Register* (49 CFR 381.315(a)). The Agency must

provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the *Federal Register* (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulation(s) Requirements

FMCSA's entry-level driver training (ELDT) regulations set forth minimum training standards for certain individuals applying for a Class A or Class B CDL for the first time; an upgrade of their CDL (*e.g.*, a Class B CDL holder seeking a Class A CDL); or a hazardous materials (H), passenger (P), or school bus (S) endorsement for the first time (49 CFR part 380, subpart F). These individuals are subject to the ELDT requirements and must complete a prescribed program of instruction provided by an entity that is listed on FMCSA's Training Provider Registry (TPR). The training requirements do not mandate a minimum number of theory or behind-the-wheel (BTW) hours for the completion of the Class A and B CDL or the S, P, or H endorsement curricula. FMCSA will submit driver-specific training certification information to State driver licensing agencies, which can administer CDL skills tests to applicants for the Class A and B CDL, and/or the P or S endorsements, or knowledge test for the H

endorsement, only after verifying the driver completed the required training. The compliance date for the ELDT regulations is February 7, 2022.

Applicant's Request

The ODE requests an exemption from the ELDT requirements as set forth in 49 CFR part 380¹. The exemption request applies to drivers, trained through ODE's "Pre-Service School Bus Driver Training" curriculum, who are seeking to obtain their Class B Commercial Driver's License (CDL) with school bus (S), passenger (P), and air brake endorsements and to current Class B CDL holders wishing to add the P and S endorsements. If granted the exemption, ODE requests it remain in effect as long as the Ohio Pre-Service theory and BTW curricula meet or exceed all of the Federal training standards. The ODE states that the Ohio Pre-Service School Bus Driver Training program was established in 1978, and periodic review and upgrades to the program are continuous. With more than 25,000 school buses operated in Ohio, safety is of greatest importance for the ODE's Office of Pupil Transportation, and thousands of drivers are trained through the Department's program each year, including new and "existing" drivers seeking their initial CDL and applicable P and S endorsements.

The ODE's application explains that all drivers who operate school buses in Ohio must be listed in the ODE's School Foundation Payment System (SFPS) portal which tracks driver license information and assures drivers complete the necessary training requirements to transport students in Ohio. The SFPS verifies that drivers participated in both theory and BTW instruction, and also completes daily checks of driver certificates to ensure certificates are not expired. All drivers are required to attend theory training and

¹ODE did not specify which subparts within 49 CFR part 380 are included within the scope of its application for exemption. However, based on the application's reference to "the new Entry Level Driver Training regulations," FMCSA interprets that ODE is requesting exemption from 49 CFR part 380, subpart F, which includes the ELDT requirements for drivers as set forth in § 380.609.

have skill evaluations at least every 6 years. Most drivers are evaluated annually by their supervisors and/or on-the-bus instructors.

The ODE contends that without this requested exemption, “Ohio school bus drivers would be required to have more training than anyone in the industry.” School bus drivers who complete the Ohio Pre-Service School Bus Driver Training meet all the criteria to operate any Group-B commercial motor vehicle (CMV). This training program enables a driver to obtain a Class B CDL and provides the training to obtain either the P, S, or air brake endorsements, which allow for the driver to operate multiple Group B-regulated CMVs.

IV. Equivalent Level of Safety

The ODE believes the current State revised and administrative codes that requires new Ohio school bus drivers to successfully complete 15 hours of theory instruction and a minimum of 12 hours of BTW instruction and the training instructors’ credentials, exceeds the requirements set forth in the ELDT regulations. The ODE’s application also references the Ohio law requiring “existing” drivers to successfully complete 9 hours of theory instruction once every six years after initial certification, and requiring school bus drivers to complete a minimum of 4 hours of annual in-service training specific to the operation of a school bus, as additional elements that exceed the level of safety of the ELDT regulations.

V. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on the ODE’s application for an exemption from the Federal ELDT regulations in 49 CFR part 380 subpart F for drivers trained through its Pre-Service School Bus Driver Training curriculum. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under

the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,
Associate Administrator for Policy.